

1. INTRODUCTION

This Agreement, between **US CELLULAR CORPORATION** (Carrier), for itself and for its employees, agents, contractors, successors and assigns, and the Wisconsin Department of Transportation (WisDOT), specifies the terms and conditions required by WisDOT to enable Carrier to construct, operate, and maintain wireless communications facilities on highway right-of-way or other property (collectively: right-of-way) under the jurisdiction of WisDOT in exchange for monetary compensation, the rent-free use of communication facilities, or both.

WisDOT's authority to enter into this Agreement includes sections 66.047, 84.01(30), 84.08, 85.15, 86.07(2), 86.16, and 182.017 Wisconsin Statutes (1997-98).

2. UTILITY ACCOMMODATION POLICY

Unless otherwise specified in this Agreement or a particular site permit, WisDOT's Utility Accommodation Policy (Policy) shall govern during all aspects of construction, operation, and maintenance of Carrier's communication facilities. This Policy is amended from time to time by WisDOT. Facilities installed by Carrier prior to changes in the Policy shall not be expected to meet the new version unless modifications to those facilities require a permit from WisDOT or are required by federal, state or local laws, codes or ordinances. By signing this Agreement, Carrier acknowledges that it has received, read, and understands the Policy.

3. PRIMARY AND SECONDARY CARRIERS

Carrier may be either a primary or secondary carrier or both during the term of this Agreement. A primary carrier is defined as a federally licensed telecommunications company or its affiliate that has been issued a permit to operate wireless communication facilities in WisDOT right-of-way, and owns a tower or a majority interest in a tower at a site to accommodate those facilities. Primary carriers include those companies that do not occupy tower space, but solely build towers and lease the space to others. Except as otherwise provided by law, a tower building company shall not be required to be a federally licensed telecommunications company to build a tower in WisDOT right-of-way.

A secondary carrier is defined as a federally licensed telecommunications company or its affiliate that has been issued a permit to operate wireless communication facilities in WisDOT right-of-way, but neither owns the tower nor a majority interest in the tower at a site. Secondary carriers may also include governmental agencies that provide service for their own use (e.g. a county sheriff's department). At any particular site, a federally licensed primary carrier may decide to become a secondary carrier, or vice-versa, on 30 days written notice to WisDOT by all parties involved with the action.

4. PRELIMINARY SITE SURVEYS

Carrier may perform preliminary site surveys to determine if a particular location would serve in the best interest of its customers. This work includes, but is not limited to, surveying, soil borings and radio frequency testing. If Carrier elects to perform a site investigation, it shall obtain form EM-405, "Application/Permit to Work on Highway Right-of-Way", from WisDOT prior to doing any work. A "site" is defined as that portion of WisDOT's right-of-way that is suitable for the installation of communication facilities (tower, antennas, buildings, equipment, etc.).

5. COLLOCATION OF COMMUNICATION FACILITIES

This Agreement, or any site permit issued, does not provide exclusive use of WisDOT's right-of-way by Carrier. WisDOT may permit secondary carriers or other utilities to be located on or near a primary carrier's facility provided they do not interfere with the primary carrier's operation. All parties interested in installing communication towers on WisDOT right-of-way shall agree to collocation on a single tower, whenever possible, in order to diminish the proliferation of towers and subsequently minimize any potential environmental and aesthetic impacts to a site.

A primary carrier shall not refuse to negotiate in good faith with secondary carriers that request to collocate on its tower unless it would interfere with the primary carrier's operations, communication systems or other equipment, the operation of the site itself, or the tower would not structurally support such occupation and the secondary carrier does not want to rebuild or modify the tower. WisDOT shall not review a site permit application of a secondary carrier until it provides written documentation that it has made a reasonable attempt to negotiate with the primary carrier. WisDOT may revoke or deny issuing a site permit for a primary carrier if it unreasonably sets forth conditions that would make collocating impracticable or undesirable for secondary carriers. Each primary carrier shall design and build its towers such that it would not preclude secondary carriers from collocating in the future.

At a permitted site location, a secondary carrier may dismantle and rebuild, or modify a primary carrier's tower and relocate the primary and any existing secondary carrier's communication facilities to the new tower in order to accommodate the secondary carrier's facilities. A secondary carrier shall not disrupt the primary or any existing secondary carrier's operations or impair their signals without their prior written consent. To obtain this consent, a secondary carrier shall provide the primary carrier and any existing secondary carriers with the following information regarding the new tower:

- 1) All plans and specifications.
- 2) The placement of the primary carrier's and any existing secondary carrier's antennas.
- 3) The method for transferring the primary carrier's and any existing secondary carrier's antennas and related facilities.
- 4) The location and type of temporary facilities that will be made available at the site to provide uninterrupted service to the primary carrier and any existing secondary carriers during the dismantling of the old tower and the construction of the new tower.

Unless the primary carrier and the secondary carrier constructing the new tower agree in writing to the contrary, the new tower shall be titled to and owned by the primary carrier, and the primary carrier shall continue to have all rights and responsibilities with respect to the new tower.

6. SITE SELECTION

Carrier shall choose sites based upon its particular need. WisDOT shall review each of these sites to determine if the proposed facility can be accessed, constructed, operated, and maintained with minimal or no disruptions to highway operations and with complete regard to the safety of both motorists and pedestrians. WisDOT has the right to reject any site chosen by Carrier, and shall provide, upon request, an explanation in writing for the denial. Carrier may seek pre-approval for a site before submitting a permit application. Preliminary information (e.g., site layout) should be submitted to WisDOT to facilitate the site review.

7. SITE USE

Primary and secondary carriers shall use a site only for the construction, operation, and maintenance (collectively: operations) of an unmanned telecommunications facility including the necessary antennas, tower, tower foundation, and equipment shelter(s). Any other use of the site without the prior written permission of WisDOT shall constitute breach by the carrier of this Agreement. The use of the site along with all corresponding operations shall:

- 1) Be in accordance with the requirements of all applicable governing agencies including the Federal Communications Commission (FCC) and Federal Aviation Administration.
- 2) Comply with all laws, orders, ordinances, regulations, licenses and permits, if any, of federal, state, and local authorities.
- 3) Not interfere with WisDOT's use of its property, the free and safe flow of traffic, WisDOT construction or maintenance work, or with WisDOT's radio or other communications unless written approval is expressly granted by WisDOT.
- 4) Not interfere with the operations of the primary or any existing secondary carrier.
- 5) Not cause any public safety hazard.

Carrier shall design each antenna and support structure to meet its particular needs. However, a primary carrier shall construct a new tower and associated site improvements in order to accommodate at least two secondary carriers. The primary carrier shall maintain the tower and site unless other arrangements are made between it and a secondary carrier (see section 15). All carriers shall maintain their facilities in good and safe condition.

All improvements (buildings, gravel surface, etc.) to the site built by Carrier for its purposes shall be at Carrier's sole risk and expense. The primary carrier shall be responsible for securing the tower and any associated improvements from unlawful access by installing a fence and a locked gate around the entire site. Secondary carriers shall also prevent unlawful access to their improvements within a site. Other site improvements (e.g., planting trees or other vegetation) may also be allowed or required at any site subject to WisDOT's prior approval. All carriers shall have the right to park their vehicles on the site when installing and servicing their communication facility subject to any special provisions in the individual site permits.

No carrier shall be permitted to post signs or other advertisements on its towers, fences, and facilities which are subject to this Agreement, except for warning, safety, and emergency signs, and other signs as required by applicable laws. WisDOT reserves the right to post signs and advertisements on any tower or site that is subject to this Agreement, at any time, provided that any carrier may refuse such postings which would impair its operations or the structural integrity of the tower.

8. SITE UTILITIES

Subject to WisDOT approval, Carrier shall be allowed to have other utilities brought to (installed at) a site to serve its facility. All utilities shall first obtain a permit from WisDOT in order to occupy right-of-way. At its option, Carrier may install a small (2- to 6-foot) microwave dish antenna instead of a land telephone line. Carrier shall be solely responsible for and timely pay all of its utility costs. WisDOT is not obligated to provide power and telephone service, but shall cooperate with Carrier in its efforts to bring electric and telephone service to the site.

9. INDIVIDUAL SITE PERMITS

Carrier shall follow WisDOT's standard utility permit process to facilitate the installation of its communication facilities. Neither this Agreement nor any permit issued grants Carrier or any other person or entity an easement nor any property rights or interest to the occupied WisDOT right-of-way, nor supersedes any other governmental agencies' more restrictive requirements.

Carrier shall fill out one original with an authorized signature plus four copies of WisDOT's current permit form DT-1553, "Application/Permit to Construct and Operate Utility Facilities on Highway Right-of-Way" [see Attachment A], for each site where it proposes to locate its facilities. Drawings depicting the location of the facilities in relation to the highway, the right-of-way boundary, and nearby crossing highways shall also be submitted with each copy of the form. See policy 96.11 for more information. Upon receiving the application in the appropriate District office, WisDOT shall have 20 calendar days in which to approve or deny the site permit. WisDOT reserves the right to suspend permits or withhold permit approvals during non-compliance violations as outlined in section 11B.

No site permit shall be issued until Carrier submits to WisDOT sufficient written documentation of item #2 in section 7 (e.g. copy of a municipal, county or town permit; a record of decision in a governing body's official minutes; etc.). If Carrier is a secondary carrier, it shall submit written documentation from the site's other carriers of item #4 in section 7. If Carrier is a tower building company, a site permit shall not be issued until Carrier proves to WisDOT that it has at least one federally licensed carrier that will occupy its tower for a period of five years commencing upon completion of the tower's construction. Such proof shall be either through an executed contract or a notarized letter of commitment between the tower building company and the federally licensed carrier.

10. AGREEMENT/PERMIT TERM LENGTH

The Agreement term shall expire five years from the date that WisDOT's signs it. Carrier shall have the option to renew for three, successive 5-year terms. Each of the successive 5-year renewal terms shall renew automatically using the same terms and conditions in effect during the previous term, except that each site's fee shall increase or be adjusted as set forth in section 16, unless Carrier provides written notice of termination no later than 90 days prior to the expiration of the applicable 5-year term. If both parties are interested in a successor Agreement, then they agree to begin negotiations about one year prior to the expiration date of the final 5-year renewal term. If the Agreement expires before it can be renewed, Carrier shall be allowed to continue to occupy sites unless WisDOT provides notice of termination as stated in section 11. Such occupation shall be on a month-to-month basis under the same terms and conditions as this Agreement, except that the fee shall be converted to monthly installments and increased using the same guidelines as listed in section 16.

Each of the individual site permits for the construction, operation, and maintenance of a communications facility shall expire at the same time as this Agreement, and become part of this Agreement upon issuance as listed in Attachment B. Carrier may elect in writing to have one or more individual site permits expire or terminate while this Agreement and other site permits are extended or renewed pursuant to the previous paragraph. Other permits issued to Carrier prior to actual construction (e.g., for preliminary site surveys) or for changes beyond routine maintenance after construction (see policy 96.61), shall be effective for the dates listed on each individual permit and shall not affect the terms of this Agreement. Once Carrier and WisDOT achieve a renewed Agreement, new permits may be issued or the existing permits extended for the subsequent term.

11. TERMINATION

This Agreement, or any individual site permit, may be terminated at any time upon mutual consent of Carrier and WisDOT. Upon termination of this Agreement, all site permits issued to Carrier and in effect at the time shall also terminate. In addition, this Agreement may terminate as follows:

A. By WisDOT for Convenience

WisDOT may revoke an individual site permit if its own use or sale of the site would be facilitated by relocation of Carrier's facilities, and shall provide Carrier with written notice a minimum of one year prior to such termination. During this period, WisDOT shall work with Carrier to find a suitable replacement site on right-of-way near the terminated site. If this type of revocation occurs and the parties do not agree upon a replacement site, Carrier shall be entitled to receive a prorated refund of its annual fee or credit towards other annual site fees. Carrier's obligation to pay a fee for individual site use shall cease upon the date that it fully restores the site to an equal or better condition than which existed upon issuance of an individual site permit (normal wear and tear and casualty loss excepted) upon removal of all of its equipment.

B. By WisDOT for Non-Compliance

WisDOT may terminate this Agreement or revoke individual site permits if Carrier:

- 1) Fails to comply with the terms of this Agreement, or any special site permit provisions.
- 2) Fails to comply with the Utility Accommodation Policy, or fails to take the proper action(s) required by WisDOT to correct Policy violations.
- 3) Violates federal, state, or local laws, codes, ordinances, licenses or permits applicable to the ownership, operation, or maintenance of the facility.
- 4) Interferes with WisDOT's operations.
- 5) Operates in a manner that threatens public safety. **Exception:** WisDOT shall not have the authority to determine that Carrier's operations threaten public safety due to concerns or complaints relating to electromagnetic emissions or other matters within the regulatory authority of the FCC or any other state or federal authority having appropriate jurisdiction, provided that Carrier is in compliance with all applicable laws and regulations of the FCC and other applicable authorities.

Items 1-5 shall hereinafter be referred to as "non-compliance" actions. If WisDOT discovers a non-compliance action that requires Carrier's prompt attention, then WisDOT shall provide Carrier with an oral or facsimile notice and Carrier shall immediately act to achieve a cure. A subsequent written notice shall follow. With other non-compliance actions, WisDOT shall provide Carrier with written notice and Carrier shall have up to 30 days to cure the action, or start the cure if by its nature, the condition cannot be cured within that time. Carrier may ask for an extension if the cure could take longer than 30 days. With any non-compliance action, WisDOT may temporarily suspend any (all) occupancy permit(s), shut down work in-progress, or withhold the approval of permit applications until Carrier takes action towards a cure to the satisfaction of WisDOT.

If, in WisDOT's reasonable opinion, a cure has not been made for non-compliance actions in accordance with the Agreement's terms, Carrier shall be provided with written notice of termination of the applicable site permit(s) or the entire Agreement. Upon termination of a site permit for non-compliance actions, WisDOT may, on written notice, do one or more of the following:

11. TERMINATION (continued)

- 6) Charge Carrier for actual right-of-way or highway damages, or loss of future income (liquidated damages), subject to WisDOT's need to recover such costs as a result of Carrier's non-compliance action(s). Liquidated damages shall be calculated by dividing the annual fee by 12, and multiplying it by the number of months remaining on the current 5-year term of the permit.

- 7) Require Carrier, if it is primary carrier and there are no secondary carriers, to remove all of its facilities, including all foundations, within 60 days, and return the site to an equal or better condition than what existed upon issuance of the site permit (normal wear and tear and casualty loss excepted) at Carrier's sole cost and expense, or,

Transfer or sell ownership of the tower and associated improvements to another carrier (selected by Carrier) upon terms mutually agreeable to Carrier and the acquiring carrier. The new carrier would first have to obtain its own "Right-of-Way Occupation Agreement" from WisDOT prior to the sale, which would contain terms similar to this Agreement.

- 8) Require Carrier, if it is the primary carrier and there is a secondary carrier, to sell or transfer ownership to another carrier (selected by Carrier) upon terms mutually agreeable to Carrier and the acquiring carrier – provided that all secondary carrier's rights to use the tower and associated improvements are not eliminated or impaired without their prior consent. The new carrier would first have to obtain its own "Right-of-Way Occupation Agreement" from WisDOT prior to the sale, which would contain terms similar to this Agreement.
- 9) Require Carrier, if it is a secondary carrier, to remove all of its facilities, including all foundations, within 60 days, and return the portion of the site it occupies to an equal or better condition than what existed upon issuance of the site permit (normal wear and tear and casualty loss excepted) at Carrier's sole cost and expense.

A failure to comply with respect to one individual site permit may not necessarily result in default to all site permits with Carrier.

If WisDOT notifies Carrier to remove its facilities and Carrier fails to comply within 60 days of the notice, WisDOT shall have the facilities removed and charge Carrier for the reasonable cost of removal or deduct such costs from moneys due Carrier under this Agreement. When removing Carrier's facilities, WisDOT:

- 10) Shall take the necessary steps to prevent interference to another carrier's operation at the site.
- 11) May ask another carrier at the site to assist in the removal process to ensure that other carrier's facilities that will remain are not interfered with or damaged.
- 12) Shall not be responsible for any damages incurred to Carrier's facilities if it fails to assist in the removal process (see section 25).

11. TERMINATION (continued)

C. By Carrier for Commercial Reasons

If, at any time during the term of an individual site permit, it becomes commercially, economically, technologically, or legally inadvisable in Carrier's business judgment for it to utilize that site, or if all or a significant portion of Carrier's facilities are destroyed by a natural disaster, fire, war, or other calamity, Carrier may terminate the permit on 30 days written notice to WisDOT. Carrier shall compensate WisDOT in an amount equivalent to one annual payment as liquidated damages for early termination with payment accompanying the written notice. If less than one year remains on the current 5-year term of the permit terminated by Carrier, Carrier shall not pay any liquidated damages but shall still forfeit its annual fee.

If any required certificate, permit, license or approval is denied, canceled or otherwise terminated for reasons beyond Carrier's control such that it is unable to use the site for its intended purposes, Carrier may terminate the site permit without payment of liquidated damages. Upon Carrier's termination of an individual site permit for commercial reasons or upon expiration without renewal of any site permit, WisDOT may, on written notice, exercise the same options listed in 11(B) 7, 8, and 9.

Nothing in section 11 shall excuse Carrier from prompt payment of any fees, taxes, insurance or any other charges required of Carrier.

With respect to the removal of foundations mentioned in section 11, Carrier may request that any foundation be allowed to remain in place to a minimum depth of two feet below finished ground level. If WisDOT agrees, Carrier shall be responsible for removing the remainder of the foundations only when a WisDOT project or other action necessitates their removal – even if Carrier's Agreement has expired with WisDOT.

12. FACILITY RELOCATION

Carrier shall be given an opportunity to relocate its facility within WisDOT right-of-way if a highway project or other WisDOT-approved use conflicts with its location. In keeping with WisDOT's policy on compensable and non-compensable utility facility moves, WisDOT shall not compensate Carrier to move its facility within the right-of-way as part of a highway project. If it is necessary to maintain uninterrupted service, Carrier shall be allowed to temporarily locate in WisDOT right-of-way at a mutually acceptable site for up to 180 days during the relocation of its facilities to a permanent site.

13. USE OF TOWERS

A primary carrier may lease its tower space to secondary carriers. See section 14 for details.

Provided that space is available and WisDOT's operations will not physically or electronically interfere with any carrier's equipment/operations or impair the structural integrity of the tower, WisDOT shall have the right to occupy any tower built by a primary carrier for WisDOT's own purposes which may include, but are not limited to, State Patrol communications and intelligent transportation systems (ITS). WisDOT, if it exercises its right to occupy a tower, shall have all rights and responsibilities like a primary or secondary carrier under this Agreement – provided that nothing herein shall be construed to be a waiver of any of WisDOT's constitutional and statutory authority, rights or sovereign immunity or of any of its rights under this Agreement – except that WisDOT shall not be required to pay any fee for the right to use a tower.

13. USE OF TOWERS (Continued)

There is no specific height that a tower shall be constructed, however, each primary carrier shall construct its towers to accommodate at least two secondary carriers.

WisDOT may engage a contractor to install its equipment on Carrier's tower, and Carrier shall have the right to approve of that contractor. Contractors utilized by WisDOT shall provide proof of adequate insurance coverage to Carrier's satisfaction. Carrier shall inspect the installation and advise WisDOT of any deficiencies. Alternatively, WisDOT may request that Carrier install WisDOT's equipment. All expenses that Carrier incurs for the ancillary equipment purchased or installed for the benefit of WisDOT, or for tower work performed by Carrier, shall be payable following submission and approval by WisDOT of an invoice – provided said fees are commercially competitive and documented in reasonable detail.

14. SECONDARY CARRIER FACILITY LEASING

Before a primary carrier allows any secondary carrier to install its equipment on the primary carrier's tower or other facility, the secondary carrier shall first acquire a permit from WisDOT. A similar "Right-of-Way Occupation Agreement" shall also be developed and entered into between the secondary carrier and WisDOT.

If the primary carrier terminates the right of a secondary carrier to occupy a tower or other facility due to an uncured default by the secondary carrier, the primary carrier shall be solely responsible for enforcing all of its remedies and rights against the secondary carrier. Such termination shall be defined as "termination by commercial reasons" (see section 11C), and WisDOT shall be entitled to collect liquidated damages from the secondary carrier and enforce other rights and remedies as set forth in its agreement with the secondary carrier. The primary carrier shall notify WisDOT within three working days of a collocation agreement with, or the termination of, a secondary carrier.

If WisDOT revokes a secondary carrier's permit, then WisDOT shall be solely responsible for enforcing all of its remedies and rights against the secondary carrier. The site permit(s) and rights of the primary carrier, and other secondary carriers if applicable, shall not be disrupted by such actions.

15. OWNERSHIP

The primary carrier shall own the tower and associated improvements it constructs at the site from the date that construction begins and throughout the term of an individual site permit. The primary carrier shall also be responsible for maintaining the tower, whether it performs the maintenance itself or contracts with another carrier to do it. A primary carrier may sell or transfer ownership of the tower and associated improvements to any carrier provided the action does not impair or eliminate any of the existing rights of any secondary carrier (if applicable) without its prior consent.

Before selling or transferring ownership to any other carrier, the acquiring carrier shall first obtain a "Right-of-Way Occupancy Agreement" from WisDOT, which would contain terms similar to this Agreement. A primary carrier shall not be allowed to remove any tower that continues to be utilized by any secondary carrier until termination or expiration of all collocation agreements with all secondary carriers at the site.

WisDOT shall retain the right to keep, sell, or remove the tower and associated improvements if the primary carrier abandons them.

16. CONDITIONS OF ISSUING SITE PERMITS

Carrier and WisDOT agree to the following conditions in conjunction with WisDOT's authorization of site permits to occupy its right-of-way under this Agreement:

- 1) Carrier shall pay WisDOT a yearly fee for each site that shall be determined by using WisDOT's current fee schedule, if such a schedule is developed and used for all cellular installations, or negotiated prior to permit approval. The fee shall be specified in the supplemental provisions with each individual site permit.

The first annual payment shall be submitted to WisDOT along with a site permit application or prior to permit approval. Subsequent annual payments are due on the anniversary of the permit issuance date. WisDOT may revoke Carrier's site permit or terminate this Agreement if it fails to pay the annual fee for any site location within 20 days of the due date. Any payment that is more than 20 days past the due date shall include a late fee of 3 percent per month.

- 2) If specified in a site permit's supplemental provisions, Carrier may be billed for WisDOT's reasonable administrative costs for preliminary site surveys, reviewing permit/application forms, field inspections, meetings, Agreement development, environmental review, legal services, addressing non-compliance issues, and administrative duties such as phone calls, right-of-way plat retrieval, copying, etc.
- 3) Once a fee has been established for a site and documented in the approved site permit, it shall not increase during the initial 5-year term of the site permit. For successive 5-year renewal terms, the fee shall be adjusted by taking the fee for the previous 5-year term and multiplying it by the change in the Consumer Price Index (CPI) from the date the permit was issued or prior renewal date, as applicable, to the current renewal date, or adjusting the fee to WisDOT's current fee schedule, if applicable. For purposes of calculation, the CPI used shall be the CPI – U.S. City Averages for Urban Wage Earners and Clerical Workers, All Items (1982-84 = 100) published by the United States Department of Labor, Bureau of Labor Statistics. Notwithstanding the actual CPI increase or WisDOT's current fee schedule, in no event shall the fee increase exceed 20 percent of the previous term's payment.
- 4) All carriers permitted by WisDOT on the same site shall pay the same fee. Each carrier shall be responsible for paying its own fee to WisDOT. Each secondary carrier shall pay 50% of its fee to WisDOT, and pay the other 50% to the primary carrier as compensation for the maintenance costs of the tower and associated improvements. The primary carrier may also charge secondary carriers a tower rental fee, which is separate but additional from the site fee.

17. RESOURCE SHARING

Carrier may provide communication services to WisDOT or other state agencies in the future. If Carrier is awarded a State contract for communication services, then WisDOT may re-negotiate the annual site fees or enter into a shared resource plan that would attempt to correspond the value of site fee(s) to the value of communications services provided.

18. SITE ACCESS AND INSPECTION

Carrier shall have access to its facilities at each individual site at all times for ordinary inspection and maintenance activities — subject to reasonable access and security procedures that may be specified by WisDOT in the site permit. If there are restrictions, WisDOT shall provide Carrier with the names and telephone numbers of at least two individuals who can be contacted if Carrier needs access to its site outside of permitted hours. Carrier agrees not to enter a site outside of the restricted hours except in an emergency situation and after telephone notice has been provided to the district utility permit coordinator or other WisDOT representative.

Carrier has the right to restrict access to its communications facilities in order to protect the public from accidental harm and its equipment from potential damage. WisDOT shall have access to all sites at all times, and may maintain its own communication facilities (if applicable) with its own workforce. WisDOT shall be allowed access to Carrier's tower(s), equipment shelter(s), or other facilities only upon reasonable notice and with an appropriate escort supplied by Carrier, but shall not interfere with Carrier's operations – unless WisDOT is enforcing a termination proceeding as set forth in section 11B. For details regarding access, such as site ingress/egress or where an entrance (driveway) can be located, see section 21B.

19. SITE RESTORATION

Carrier shall restore any WisDOT right-of-way outside of what is physically needed for a site within two weeks after installing its facilities. At the discretion of WisDOT, landscaping may be needed at the site for aesthetic reasons. When this is necessary, Carrier shall provide a landscaping plan for WisDOT approval and complete the landscaping within 60 days after the tower and associated improvements are installed.

WisDOT may grant time extensions for restoration or landscaping upon written notification from Carrier. Carrier may also forfeit any prepaid fee(s) for not fully restoring a site. If Carrier removes its facilities but fails to do restoration within the specified time period, WisDOT shall have the site restored and bill Carrier for the work.

20. ENVIRONMENTAL COMPLIANCE

Carrier shall comply with any existing or hereinafter enacted environmental laws or regulations that apply to or affect the operation of Carrier's facilities covered by this Agreement or the individual site permits. At any site, Carrier shall not generate, store, or dispose of any hazardous substances nor transport those substances to or from the site, except that Carrier may have batteries or other fuel at the site for use as a backup power source. Backup generators and the storage of fuel for the generators shall only be allowed upon prior consent of WisDOT and documented in a site permit's provisions. Except for batteries or other fuel as noted above, Carrier's facilities shall not constitute, contain, generate or release any hazardous substance, waste, pollutant, or contaminant as defined under federal, state, and local laws.

Carrier shall perform an environmental analysis at each site before an individual site permit is issued. The screening sheets in Attachment C shall be used to document the analysis and shall be submitted with each permit application. If any question on the screening sheets is checked "No", then Carrier shall work with the district environmental coordinator to resolve the conflict before a site permit can be issued.

20. ENVIRONMENTAL COMPLIANCE (continued)

If WisDOT has conducted an improvement project in the vicinity of any site and has done an environmental assessment for that project at any time, WisDOT shall furnish Carrier with that information upon request. Any information provided to Carrier shall be considered *“for informational purposes only”* since the assessment may be incomplete or inaccurate, i.e., conditions at a particular site may change between the date of the field investigation or report, and the date it is actually reviewed.

Policy 96.08 shall be used if Carrier discovers any environmental conditions on WisDOT right-of-way — either before, during, or after installation of its facilities. Carrier shall not be responsible for the assessment, mitigation or remediation of preexisting site conditions unless Carrier's operations cause the material to be disturbed and Carrier fails to follow policy 96.08(E). When site remediation must be undertaken as a result of contamination from Carrier-generated materials not preexisting at a site, Carrier shall initiate, finance, and carry out a WisDOT approved remediation plan.

The obligations of Carrier set forth in this section shall survive the termination of this Agreement. However, if Carrier removes all of its facilities from a site, completes the required restoration and provides WisDOT with a site survey from an environmental consultant licensed to do business in Wisconsin documenting that the site is free and clear from all Carrier-generated contaminants, then this obligation shall be released in writing by WisDOT for that particular site.

21. INSTALLATION REQUIREMENTS

Carrier shall be responsible for obtaining all of the required permits and approvals before commencing any construction at a site. Carrier shall complete construction of its facilities within one year after the date that the site permit is signed by WisDOT. If Carrier fails to complete said construction, WisDOT shall have the option of revoking the permit or extending the time frame for completion. All installations shall follow the guidelines set forth in WisDOT's Policy, except as specified in this Agreement or in any special permit provisions.

A. WisDOT Inspections

WisDOT reserves the right to inspect the work in progress either with WisDOT personnel or county highway department personnel who are under contract with WisDOT to provide highway maintenance services. A copy of any permits issued to Carrier for a particular site shall be present at the site during all work times.

B. On-Site Project Manager/Other Contacts

Carrier shall provide the names and telephone numbers of the people in charge of its field operations, and those who are responsible for the overall project or individual pieces (e.g., consultant or contractor). Field personnel shall have cellular phones or pagers that would enable a WisDOT representative to contact them at any time.

C. Work Area Protection During Non-Work Times

Carrier should store its equipment and materials off the right-of-way during non-work times if possible. If necessary, Carrier may store its equipment and material on the right-of-way provided it is placed as close to the right-of-way line as possible and outside of the clear zone. Carrier shall ensure that any excavation left open during non-work times is well marked and secured from public intrusion.

21. INSTALLATION REQUIREMENTS (Continued)

D. Access to Sites (Ingress/Egress — Driveways)

WisDOT shall determine access, as in ingress and egress to a site, on a case-by-case basis and document it on each site permit. If the site is on fully access controlled (freeway) right-of-way, other than a rest area, wayside, weigh scale, or park-and-ride lot, access shall be from adjacent lands, frontage roads, or crossing highways, and not from the live lanes of the freeway unless specifically authorized by WisDOT.

Carrier may temporarily remove a portion of WisDOT's security fence to gain access to the right-of-way. Carrier shall be responsible for effectively restricting access by others during the period when the fence is open. Overnight, the security fence shall be restored, a locked gate installed, or some other means of securing the fence completed to keep out people and animals.

WisDOT shall determine access, as in the location of an entrance to a site, also on a case-by-case basis. If conditions warrant, the primary carrier shall be allowed to construct a driveway for the site entrance. The primary carrier shall be responsible for maintaining the driveway including plowing snow.

E. Erosion Control

A formal erosion control plan shall be required if any excavations or equipment tracks remain open or disturbed for more than 24 hours in accordance with Policy 96.55. Carrier shall take all steps necessary to prevent soil from getting into nearby waterways and shall protect excavated areas with silt fence, hay bales, or other erosion control devices to contain the soil directly at the location. All appropriate erosion control devices shall be in place prior to starting construction activities. Upon request from WisDOT, Carrier shall provide a formal erosion control plan if it cannot effectively demonstrate proper erosion control practices during its operation.

F. Tree/Vegetation Removal

All trees or other vegetation to be removed by Carrier to accommodate site construction shall first be approved and marked in the field by a WisDOT representative. All trees, stumps, and shrubs slated for removal shall be completely removed and grubbed and holes properly backfilled. Carrier may dispose of the trees by giving the adjacent property owner the opportunity to keep them. If that owner does not want the trees, then Carrier may dispose of them as it wishes so long as it is off WisDOT's right-of-way and out of sight from the traveling public. The trees may be chipped and mulched on the right-of-way upon approval from WisDOT.

WisDOT may require Carrier to transplant, or remove and replace, trees or other vegetation that WisDOT planted for a living snow fence or for aesthetic purposes. Carrier shall maintain all transplanted or newly planted trees and vegetation for a period of two years. If any trees or other vegetation die within the 2-year period, Carrier shall replace and maintain them for another 2-year period.

Carrier shall not burn, nor use any pesticides (herbicides, rodenticides or insecticides) on any portion of the right-of-way without prior approval from WisDOT. WisDOT reserves the right to disapprove the use of any pesticide – even one approved by the United States Environmental Protection Agency.

G. Pre-Construction Meetings

WisDOT and Carrier along with its contractors and consultants (and a representative from the Department of Natural Resources, if necessary) shall meet at least two weeks prior to the start of site construction to discuss the entire project and its corresponding timetable.

FINAL

21. INSTALLATION REQUIREMENTS (Continued)

H. Traffic Control

All work zone traffic control, when required, shall be in accordance with the Wisconsin Manual on Uniform Traffic Control Devices, Part 6. Additional guidance is available from WisDOT through a booklet entitled, *Work Zone Safety, Guidelines for Construction, Maintenance, and Utility Operations* or from Policy 96.51. For freeway or expressway operations that continuously remain more than 30 feet from the edge of the closest traffic lane, work zone signing is not required.

I. Refuse Disposal

Carrier shall not dispose of its refuse or excess/salvaged materials on WisDOT right-of-way. Any such items shall be recycled, properly disposed in a licensed landfill, or kept by Carrier.

22. INSURANCE AND SUBROGATION

During the term of this Agreement, Carrier shall secure at its cost, maintain in full force and effect at all times, and require any contractor entering and/or performing any type of work whatsoever on behalf of Carrier to have in full force and effect, the following types and limits of commercial insurance:

TYPE OF INSURANCE	MINIMUM LIMITS REQUIRED*
1) <u>Commercial General Liability</u> ; shall include blanket contractual liability and completed operations coverage.	\$2 million combined single limits per occurrence; may be subject to an annual aggregate limit of not less than \$4 million.
2) <u>Workers' Compensation and Employers' Liability</u>	Workers' Compensation: Statutory Limits Employers' Liability: Bodily injury by accident: \$100,000 each occurrence Bodily injury by disease: \$500,000 each occurrence \$100,000 each employee
3) <u>Commercial Automobile Liability</u> ; shall cover all Carrier and contractor-owned, non-owned, and hired vehicles used in carrying out the contract.	\$1 million combined single limits per occurrence

* These requirements may be satisfied either through primary insurance coverage or through excess/umbrella policies.

Carrier shall provide WisDOT [see Attachment D] with certificates of insurance as evidence that required coverage for insurance types 1, 2, and 3 are in force. The certificates shall be provided at the time of execution and delivery of this Agreement, except that certificates of insurance for contractors entering and/or performing any work on behalf of Carrier shall be provided to WisDOT prior to the contractor entering or commencing any work. All certificates of insurance shall provide that the insurer shall not cancel the insurance or the limits reduced below the minimum requirements as listed above without 30 days written notice to WisDOT.

In the event of the expiration of any of the insurance policies as listed above, a change from one insurance carrier to another, or any changes affecting exposure, exclusions, and amounts

FINAL

of coverage, Carrier shall submit, within three working days, a new certificate to WisDOT reflecting such information. All coverage shall be placed with insurance companies licensed to do business in the State of Wisconsin that have an A.M. Best rating of A- or better.

23. EMERGENCIES

Carrier may respond to any emergency related to its facility without first obtaining a permit from WisDOT so long it follows Policy guidelines while handling the emergency. If necessary, Carrier shall submit a permit application after the emergency to document any changes to its facility. Carrier shall pay all costs associated with any fire calls for emergency responses to its facilities. WisDOT shall bill Carrier for the amount billed to WisDOT by a town, village, or city fire department under sections 60.557(2), 61.65(8), and 62.13(8) Wisconsin Statutes (1997-98), respectively.

If necessary, Carrier shall contact the person(s) listed in each individual site permit when Carrier requires assistance with work zone traffic control signs, devices, or personnel to facilitate an emergency repair or replacement of its facilities. WisDOT reserves the right to make repairs on Carrier's facility, at Carrier's sole expense, when such repairs are needed on an emergency basis to protect WisDOT or another state agency's facilities or the public, but WisDOT shall have no obligation to make any such emergency repairs. WisDOT shall notify Carrier of any emergency, if practical, and give Carrier an opportunity to respond.

24. TAXES AND LIENS

Carrier shall promptly pay and discharge all taxes, assessments, fees, and other charges levied or assessed against its facilities situated on WisDOT right-of-way, and all real estate taxes, special assessments, license fees, permits, area charges, occupational taxes, and any and all other charges levied or assessed by reason of Carrier's use and occupancy of a site which become due during, or apply to the term covered by, this Agreement and any renewal term or extension thereof, which are hereby declared the obligation of Carrier under this Agreement. Such obligation specifically excludes any and all income, gross receipt taxes, and other taxes of this nature assessed upon WisDOT.

Carrier shall keep the site free from any liens arising from work performed, materials furnished or obligations incurred by Carrier, nor shall permit the filing of a lien against any part of the site. Upon completion of any construction, copies of the signed lien waivers, if any, shall be supplied to WisDOT.

25. HOLD HARMLESS

WisDOT's standard indemnification clause, policy 96.03, is part of this Agreement and incorporated herein by reference and shall be applicable to and included on all permits. A copy of the language is on the back of the DT-1553 permit application [see Attachment A].

26. CHOICE OF LAW

This Agreement is entered into and governed by the laws of the State of Wisconsin.

27. SEVERABILITY

If any provision of this Agreement should be found to be illegal, invalid or otherwise void, it shall be considered severable. The remaining provisions shall not be impaired and the Agreement shall be interpreted as far as is possible to give effect to the parties' intent.

28. NO PARTNERSHIP CREATED

Nothing herein shall be deemed to create a partnership between WisDOT and Carrier and neither party shall have authority to obligate the other.

29. APPROPRIATIONS

Nothing herein shall be construed as obligating WisDOT to the expenditure of funds or for the future payment of money in excess of appropriations authorized by law.

30. SALE OR TRANSFER OF RIGHT-OF-WAY BY WISDOT

WisDOT may elect or be directed by the Governor, Legislature, or Secretary of Transportation to sell or transfer ownership of right-of-way that contains Carrier's facilities. Carrier shall be given at least one year's advance notice of the sale or transfer, and shall make no claim to prevent either. Upon receiving said notice, Carrier has the right to terminate the Agreement as detailed in section 11C without penalty. WisDOT shall attempt to make the sale or transfer subject to the terms and conditions of its Agreement with Carrier and any individual site permits, provide Carrier with an opportunity to purchase the property, or work with Carrier to find another suitable site.

31. SUBSEQUENT LEGISLATION, REGULATION, AND PROCEDURES

Legislation pertaining to the use of WisDOT right-of-way or other facilities may be passed after the date of this Agreement, or WisDOT may adopt regulations or new policies pertaining to the same. Should any of these events occur, the new statutes, administrative rules, and policies, including subsequent amendments thereto, may become part of or applicable to this Agreement. In addition, any language in this Agreement that is inconsistent with the new statutes, regulations, or policies may be voided immediately upon its effective date. WisDOT may need to draft new Agreement language to remedy any inconsistencies, but shall work with Carrier to obtain its consensus in order not to materially impair Carrier's operations.

32. ASSIGNMENT

This Agreement is specific to WisDOT and Carrier only and shall not be assigned by either party to another carrier.

If Carrier simply changes its name (e.g. due to a reorganization or merger with another company or carrier) with no material change in ownership of the permitted facility, WisDOT shall change the name on the Agreement to Carrier's new name. This action shall not constitute an assignment.

33. NOTICES

All notices under this Agreement and any individual site permits shall be in writing and shall be deemed valid if sent by overnight delivery or certified mail, return receipt requested, and effective on the third day following the date the notice is postmarked if no other date is specified in the notice itself. Notices should be addressed as shown in Attachment D. Either party may change the designated recipient of notices and the address by so notifying the other party in writing. Failure of WisDOT to give notice for any default shall not be deemed to be a waiver thereof nor consent to the continuation thereof.

34. ENTIRE AGREEMENT

The terms and provisions herein contained, including all attachments and permits issued to Carrier for its respective sites, constitute the entire Agreement between the parties and shall supersede all previous communications, either oral or written, between the parties with respect to the subject matter hereof, and no agreements or understandings varying or extending the same shall be binding upon either party unless in writing signed by a duly authorized officer or representative of each party.

In order, the hierarchy for resolving inconsistencies between documents is as follows:

- 1) An individual site permit.
- 2) This Agreement.
- 3) The Utility Accommodation Policy.

35. WORKING RELATIONSHIP

WisDOT and Carrier shall **at all times** cooperate with each other, act in good faith, and expedite all decisions, notices, and correspondence in a timely manner throughout the performance of this Agreement. This includes working with other carriers that may be interested in purchasing any or all of Carrier's facilities that have been permitted on WisDOT right-of-way.

36. WARRANTY OF AUTHORITY

The signatories hereto warrant that they have full authority to enter into this Agreement and make it binding on the parties hereto without further action or approval. The effective date of this Agreement shall be the date that WisDOT signs it. In accepting this Agreement, Carrier agrees to perform and be bound by all of the terms and conditions contained herein, even though the performance thereof may not be required by Carrier until **after** the termination of the Agreement or any site permit.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate by their duly authorized and empowered officers or representatives:

**WISCONSIN DEPARTMENT OF
TRANSPORTATION**

US CELLULAR CORPORATION

By: _____

By: _____

Title: _____

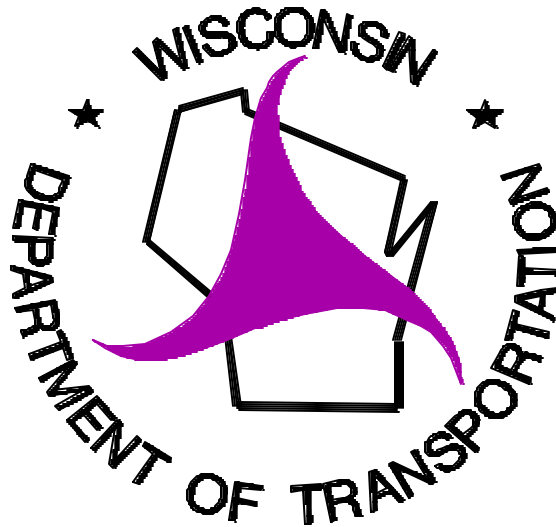
Title: _____

Date: _____

Date: _____

FINAL

RIGHT-OF-WAY OCCUPATION AGREEMENT
between
US CELLULAR CORPORATION
and the
WISCONSIN DEPARTMENT OF TRANSPORTATION



October 8, 2000

FINAL

Table of Contents

1. INTRODUCTION	1
2. <u>UTILITY ACCOMMODATION POLICY</u>	1
3. PRIMARY AND SECONDARY CARRIERS	1
4. PRELIMINARY SITE SURVEYS.....	1
5. COLLOCATION OF COMMUNICATION FACILITIES.....	2
6. SITE SELECTION	2
7. SITE USE	3
8. SITE UTILITIES	3
9. INDIVIDUAL SITE PERMITS.....	4
10. AGREEMENT/PERMIT TERM LENGTH	4
11. TERMINATION.....	5-7
A. By WisDOT for Convenience.....	5
B. By WisDOT for Non-Compliance	5-6
C. By Carrier for Commercial Reasons.....	7
12. FACILITY RELOCATION.....	7
13. USE OF TOWERS.....	7-8
14. SECONDARY CARRIER FACILITY LEASING.....	8
15. OWNERSHIP.....	8
16. CONDITIONS OF ISSUING SITE PERMITS.....	9
17. RESOURCE SHARING	9
18. SITE ACCESS AND INSPECTION	10
19. SITE RESTORATION	10
20. ENVIRONMENTAL COMPLIANCE	10-11

Table of Contents (continued)

21. INSTALLATION REQUIREMENTS	11-13
A. WisDOT Inspections	11
B. On-Site Project Manager/Other Contacts.....	11
C. Work Area Protection During Non-Work Times.....	11
D. Access to Sites (Ingress/Egress — Driveways).....	12
E. Erosion Control	12
F. Tree/Vegetation Removal.....	12
G. Pre-Construction Meetings	12
H. Traffic Control.....	13
I. Refuse Disposal.....	13
22. INSURANCE AND SUBROGATION.....	13
23. EMERGENCIES.....	14
24. TAXES AND LIENS	14
25. HOLD HARMLESS	14
26. CHOICE OF LAW	14
27. SEVERABILITY	14
28. NO PARTNERSHIP CREATED	15
29. APPROPRIATIONS	15
30. SALE OR TRANSFER OF RIGHT-OF-WAY BY WISDOT	15
31. SUBSEQUENT LEGISLATION, REGULATION, AND PROCEDURES	15
32. ASSIGNMENT.....	15
33. NOTICES	15
34. ENTIRE AGREEMENT	16
35. WORKING RELATIONSHIP.....	16
36. WARRANTY OF AUTHORITY	16
 <u>ATTACHMENTS</u>	
A. DT-1553, Application/Permit to Construct and Operate Utility Facilities on Highway Right-Of-Way (1998)	
B. List of Individual Site Permits	
C. Programmatic Environmental Criteria Checklist	
D. Important Addresses	

ATTACHMENT B
List of Individual Site Permits

#	County	Hwy	Location	Permit #	Comments
1	Sauk	STH 23	1.2 miles north of STH 154 (N) in wayside	000758	Sauk Co is a secondary carrier (See permit 000759)
2					

ATTACHMENT C
PROGRAMMATIC ENVIRONMENTAL CRITERIA CHECK LIST

1) **Significant Cultural Resource** - Cultural Resources are considered significant if they are on or eligible for the National Register of Historic Places. Properties on the National Register of Historic Places may be pre-historic or historic buildings, structures, or sites. Local sites must be evaluated to determine whether they are eligible for the National Register. See Chapter 26 of the FDM.

There are no adverse effects to a significant cultural resource?

Project Meets Criteria ☐ Yes ☐ No ☐ Criteria Does Not Apply

2) **Nationwide Section 404 Permit** - A Nationwide Section 404 Permit may be authorized by the US Army Corps of Engineers whenever a fill is placed into a wetland, stream, lake or other "water of the United States" and it fulfills the conditions of a Nationwide Permit, i.e., it does not create a significant adverse effect. Nationwide Section 404 Permits for fills into a wetland, stream, lake, or other water of the United States have specific criteria and must be authorized by the US Army Corps of Engineers. See FDM Procedure 21-30-1.

Fills Placed into waters of the United States will be covered by a Nationwide Section 404 Permit.

Project Meets Criteria ☐ Yes ☐ No ☐ Criteria Does Not Apply

3) **Contaminated Sites** - Sites contaminated with hazardous materials or wastes shall not be used for this project. If hazardous materials are encountered at a site, the DNR and WisDOT shall be notified immediately.

Sites with hazardous materials or wastes shall not be used for this project.

Project Meets Criteria ☐ Yes ☐ No ☐ Criteria Does Not Apply

4) **Endangered Species** - Endangered species and their critical habitat are protected by both state and federal laws. The Wisconsin DNR has lists of species protected by both state and federal laws.

No endangered species or their habitat will be affected by this project.

Project Meets Criteria ☐ Yes ☐ No ☐ Criteria Does Not Apply

5) **Access Control** - Access controls are used to control the number of access points along a length of highway to maintain the traffic flow conditions. Minor access adjustments for individual parcels are acceptable, e.g., access moved off the road to be improved to a side road .

Existing access will be maintained along the length of the project.

Project Meets Criteria ☐ Yes ☐ No ☐ Criteria Does Not Apply

ATTACHMENT C
PROGRAMMATIC ENVIRONMENTAL CRITERIA CHECK LIST

6) **Consistency with existing plans** - Endorsed transportation, air quality, and land use plans reflect the goals and objectives of the area and a proposed action must be consistent with them.

The proposed action is consistent with the locally endorsed transportation, air quality, and land use plans of the area.

Project Meets Criteria ☐ Yes ☐ No ☐ Criteria Does Not Apply

7) **Coastal Zone** - The Coastal Zone Management Plan guides development in the counties of Wisconsin which have coastline on either Lake Michigan or Lake Superior.

The proposed action is consistent with the goals of the Coastal Zone Management Plan.

Project Meets Criteria ☐ Yes ☐ No ☐ Criteria Does Not Apply

NOTE: Consistency with the Coastal Zone Management is considered achieved when a project is coordinated with DNR and they have noted no objections.

8) **Flood Plains** - No significant encroachment into a flood plain pursuant to Governor's Executive Order 79 or Presidential Executive Order 11988 is allowable. See FDM 21-25-25.

The project will not have a significant encroachment into a flood plain.

Project Meets Criteria ☐ Yes ☐ No ☐ Criteria Does Not Apply

ATTACHMENT D

Important Addresses

- 4 **Questions regarding this Agreement or the Utility Accommodation Policy**
- 4 **Where to send NOTICES***
- 4 **Where to send Carrier's Evidence of Insurance**
- 4 **Where to send Annual Payments**

Robert C. Fasick
Wisconsin DOT
Bureau of Highway Operations
PO Box 7986 -- Room 501
Madison, WI 53707-7986

* cc: District Utility Permit Coordinators
See list in policy 96.93

robert.fasick@dot.state.wi.us

Office: 608/266-3438 Fax: 608/267-7856 Emergency (Pager): 608/278-2615

- 4 **Questions regarding Wisconsin Laws and Administrative Rules**

Frederick G. Wisner
Wisconsin DOT
Office of General Counsel
PO Box 7910 -- Room 115B
Madison, WI 53707-7910

Office: 608/266-8810 Fax: 608/267-6734

- 4 **Questions regarding specific permits**

Each District maintenance office will review all permit applications.
See appendices 96.91 and 92 in the Policy for a directory of District offices.

- 4 **Carrier's contact for notices**

Name: Karen Bartells

Office: 608/441-4146

Company: US Cellular Corporation

Fax: 608/441-4102

Address : 5117 West Terrace Drive

Emergency: 608/441-4500

Madison, WI 53718

APPLICATION/PERMIT

TO CONSTRUCT AND OPERATE UTILITY FACILITIES ON HIGHWAY RIGHT-OF-WAY

s.66.047,84.08, 85.15, 86.07(2), 86.16, 182.017 and such other applicable Wis. Stats.

Location Description - Quarter section, section, township, range, etc.

To each copy of the application attach one copy of the sketch showing location.

Proposed Work Location

☐ Town ☐ Village ☐ City

OF

County

Applicant Name and Address

Construction Starting Date

Construction Completion Date *See Note Below

Applicant Work Order - if any

Highway

Utility Facility/Work Type

Line Orientation

Trans. 401 Project Designation
(See policy 96.55)☐ STH _____☐ Electric☐ CATV☐ Overhead☐ Minor☐ USH _____☐ Telephone/
Communications☐ Gas/Petroleum☐ Underground☐ Major☐ Interstate _____☐ Water☐ Chemical Treatment☐ Bridge Attachment☐ For Major projects only,
the utility shall notify the
department at least 24
hours prior to the installation
of erosion control and storm
water management
measures Trans. 401.09(1).☐ Sanitary Sewer☐ Tree Cutting/Removal

* NOTE: If the work described is not completed by the "Completion Date" specified, this permit is null and void, and the work shall not be completed unless authorized through a subsequent permit or an approved time extension.

Name of Utility Person Responsible for Construction

(Area Code) Telephone Number

It is understood and agreed that approval is subject to the applicant's full compliance with the pertinent Statutes, as well as any rules and regulations of other jurisdictional agencies, which may be more restrictive, and with the Wisconsin Department of Transportation's Utility Accommodation Policy, current edition.

Are You a member of Diggers Hotline?

☐ Yes

(Signature of Authorized Representative)

(Date)

☐ No, provide number _____

(Title)

(Authorized Representative Telephone Number)

District Location and Telephone Number

Date Application Received by District

☐ The applicant shall contact the Transportation District Office at the Telephone Number given at right NOT LESS THAN 3 WORKING DAYS prior to the start of the permitted work to arrange for a District Representative to locate and mark the existing traffic signal and/or highway lighting lines. No work under this permit shall be accomplished prior to the District Representative's arrival.

Special Telephone Number

Wisconsin Department of Transportation Permit Approval

Permit Number

Issuance Date

FINAL

INDEMNIFICATION

This Applicant shall save and hold the State, its officers, employees, agents, and all private and governmental contractors and subcontractors with the State under Chapter 84 Wisconsin Statutes, harmless from actions of any nature whatsoever (including any by Applicant itself) which arise out of, or are connected with, or are claimed to arise out of or be connected with any of the work done by the Applicant, or the construction or maintenance of facilities by the Applicant, pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, (1) while the Applicant is performing its work, or (2) while any of the Applicant's property, equipment, or personnel, are in or about such place or the vicinity thereof, or (3) while any property constructed, placed or operated by or on behalf of Applicant remains on the State's property or right-of-way pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way; including without limiting the generality of the foregoing, all liability, damages, loss expense, claims, demands and actions on account of personal injury, death or property loss to the State, its officers, employees, agents, contractors, subcontractors or frequenters; to the Applicant, its employees, agents, contractors, subcontractors, or frequenters; or to any other persons, whether based upon, or claimed to be based upon, statutory (including, without limiting the generality of the foregoing, worker's compensation), contractual, tort, or whether or not caused or claimed to have been caused by active or inactive negligence or other breach of duty by the State, its officers, employees, agents, contractors, subcontractors or frequenters; Applicant, its employees, agents, contractors, subcontractors or frequenters; or any other person. Without limiting the generality of the foregoing, the liability, damage, loss, expense, claims, demands and actions indemnified against shall include all liability, damage, loss, expense, claims, demands and actions for damage to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way in the past or present, or that are located on any highway or State property or right-of-way with or without a permit issued by the State, for any loss of data, information, or material; for trademark, copyright or patent infringement; for unfair competition or infringement of personal or property rights of any kind whatever. The Applicant shall at its own expense investigate all such claims and demands, attend to their settlement or other disposition, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

Any transfer, whether voluntary or involuntary, of ownership or control of any property constructed, placed or operated by or on behalf of the Applicant that remains on the State's property or right-of-way pursuant to this permit shall not release Applicant from any of the indemnification requirements of this permit, unless the State is notified of such transfer in writing. Any acceptance by any other person or entity, whether voluntary or involuntary, of ownership or control of any property constructed, placed or operated by or on behalf of the Applicant that remains on the State's property or right-of-way pursuant to this permit, shall include acceptance of all of the indemnification requirements of this permit by the other person or entity receiving ownership or control.

Notwithstanding the foregoing, a private contractor or subcontractor with the State under Chapter 84 Wisconsin Statutes, that fails to comply with sections 66.047 and 182.0175 Wisconsin Statutes (1985-1986), remains subject to the payment to the Applicant of the actual cost of repair of intentional or negligent damage by the contractor or subcontractor to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, and remains subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the contractor or subcontractor.

Notwithstanding the foregoing, if the State, or its officers, employees and agents, fail to comply with sections 66.047 and 182.0175 Wisconsin Statutes (1985-1986), the State or its officers, employees and agents, remain subject to the payment to the Applicant of the actual cost of repair of willful and intentional damage by the State, or its officers, employees and agents, to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, and remain subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the State, its officers, employees and agents.

No indemnification of private contractors or subcontractors with the State under Chapter 84 Wisconsin Statutes, shall apply in the event of willful and intentional damage by such private contractors or subcontractors to the property, lines and facilities of the Applicant located on the highway right-of-way pursuant to this permit or any other permit issued by the State for the location of property, lines or facilities on highway right-of-way.